

**PELTON & ASSOCIATES PC**

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*Attorneys for Plaintiffs*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

**JONATHAN HALL, CERRISA ANGEL GREEN,  
NIVIA WILSON, SINDY DE LA HOZ OCAMPO,  
TIFFANY GUADALUPE, ROBERT REITH, DAVID  
SCHWARTZBERG, NICOLE THOMPSON, MONA  
LIVAI, JEFFREY CRUICKSHANK, ANDREW  
DEARDORFF and LAURA SHAW, Individually and  
on Behalf of All Others Similarly Situated,**

**Plaintiffs,**

**-against-**

**PROSOURCE TECHNOLOGIES, LLC, JASON  
ALT, SCOTT STENGER and GREGORY  
WHEELER, Jointly and Severally,**

**Defendants.**

**2:14 Civ. 02502 (SIL)**

**NOTICE OF PLAINTIFFS' MOTION FOR PRELIMINARY  
APPROVAL OF CLASS SETTLEMENT**

PLEASE TAKE NOTICE that, upon the annexed affidavit of Brent E. Pelton, Esq., sworn to August 7, 2015, the exhibits annexed thereto, the accompanying memorandum of law in support of the Plaintiffs' motion for preliminary approval of the settlement agreement, and all the pleadings and proceedings heretofore had herein, the undersigned moves this Court, before the Hon. Stephen I. Locke, United States Magistrate Judge, in the United States District

Courthouse for the Eastern District of New York, 100 Federal Plaza, Central Islip, New York 11722, for an Order:

(1) preliminarily approving the settlement reached by the parties in this action as embodied in their Settlement Agreement And Release (See Exhibit B, annexed to Pelton Declaration);

(2) provisionally certifying the following settlement class under Federal Rule of Civil Procedure 23 in connection with the settlement process:

Persons who were employed by ProSource in New York from April 18, 2008 through August 7, 2015 with the exception of the individual named defendants Gregory Wheeler, Jason Alt and Scott Stenger and persons in the following job titles: Director of Operations, Director of Environmental Services, Director of Human Resources, Director of Business Development, and IT Manager.

(3) provisionally certifying the following settlement subclasses under Federal Rule of Civil Procedure 23 in connection with the settlement process:

(a) Overtime Subclass: all New York Class Members who were classified by ProSource as “exempt” employees under the NYLL and who worked over forty (40) hours in a week and were not paid time and a half their regular hourly rate for these hours worked over forty (40) in a week, including but not limited to: case managers, case leads/lead case managers, site managers, paralegals, right of way specialists, title examiners, project managers and real estate specialists. Excluded from “Overtime Subclass” are Collective Action Members.

(b) Wage Notice Subclass: all New York Class Members who did not at the beginning of their employment in New York receive a wage notice in the form prescribed by the New York Department of Labor. Collective Action Members who were employed by ProSource in New York will only be Wage Notice Subclass Members for the period of time that they were employed by ProSource in New York.

(c) WARN Act Subclass: all New York Class Members whose employment was terminated by ProSource between May 30, 2014 and July 9, 2014.

(4) approving the proposed Notice of Proposed Settlement of Class Action Lawsuit and Fairness Hearing (“Proposed Notice”), Deadline Reminder Notice (“Reminder Notice”) and Claim Form attached hereto as **Exhibits 1 - 3**;

(5) appointing Pelton & Associates, P.C. as Class and Collective Counsel;

(6) appointing Class and Collective Counsel as the administrator of the Settlement;

(7) instructing the parties to appear before this Court for a Final Approval and Fairness Hearing on a date approximately seventy-five (75) days from the date of the Preliminary Approval Order; and

(8) for such other and further relief as the Court may deem just and proper.

Attached hereto as **Exhibit 4** please find Plaintiffs’ [PROPOSED] ORDER ON PLAINTIFFS’ MOTION FOR PRELIMINARY APPROVAL OF CLASS AND COLLECTIVE SETTLEMENT.

Dated: New York, New York  
August 7, 2015

Respectfully submitted,

PELTON & ASSOCIATES, PC

By: /s/Brent E. Pelton  
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